

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHEASTERN DIVISION

Mitchell David Holbach,)	
)	
Petitioner,)	
)	Case No: 3:10-cv-26
vs.)	
)	
Don Redman,)	
)	
)	
Respondent.)	

REPORT AND RECOMMENDATION

Petitioner Mitchell David Holbach ("Holbach"), an inmate at the James River Correctional Center, submitted for filing on March 29, 2010 a habeas petition under 28 U.S.C. § 2254 and an application for leave to proceed *in forma pauperis*. The certificate of inmate account and assets from the correctional institution shows that as of March 25, 2010 Holbach had \$5.00 in his Inmate Account. In the six months preceding March 25, 2010, Holbach's average of the monthly deposits to the Inmate Account was \$34.17.

It appears Holbach has sufficient funds to pay the \$5.00 filing fee for this action. It is therefore **RECOMMENDED** that Holbach's application to proceed *in forma pauperis* (Doc. #1) **BE DENIED**. If Holbach wishes to pursue his petition for habeas relief, he may pay the \$5.00 filing fee.

Dated this 5th day of April, 2010.

/s/ Karen K. Klein
Karen K. Klein
United States Magistrate Judge

Notice of Right to Object

Pursuant to Rule 72(a) and (b), Federal Rules of Civil Procedure, and District of North Dakota Local Court Civil Rule 72.1(D)(2) and (3), any party may object to this Report and Recommendation by filing with the Clerk of Court no later than April 26, 2010, a pleading specifically identifying those portions of the Report and Recommendation to which objection is made and the basis of any objection. Failure to object or to comply with this procedure may forfeit the right to seek review in the Court of Appeals.